

FILED
DISTRICT COURT OF GUAM

MAR 31 2006

MARY L.M. MORAN
CLERK OF COURT

DISTRICT COURT OF GUAM
TERRITORY OF GUAM

ISAGANI P. DELA PEÑA, JR.,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

Criminal Case No. 00-00126

Civil Case No. 04-00004

ORDER

This matter comes before the Court on Petitioner Isagani P. Dela Peña Jr.'s ("Dela Peña") Motion for Certificate of Appealability ("motion")¹ following the Court's denial of his motion to correct sentence pursuant to 28 U.S.C. § 2255. A certificate of appealability may be issued from a final order in a proceeding under § 2255 "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Dela Peña has made no such showing. Instead, Dela Peña essentially reasserts the arguments raised in his initial motions. Dela Peña fails to allege any new information to substantially support his claims.

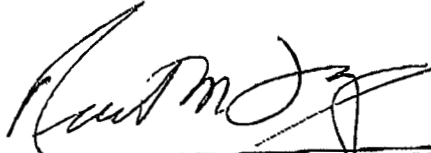
On this basis, the Court will not issue a certificate of appealability. Dela Peña has not substantially demonstrated the denial of his constitutional rights, pursuant to 28 U.S.C. § 2253(c)(2) nor has he demonstrated that the issues surrounding this Court's denial of Dela Peña's

¹ The Court notes that Dela Peña has more recently filed a second motion entitled "MOTION FOR ACCELERATED ADJUDICATION OF MOTION FOR CERTIFICATE OF APPEALABILITY." See Docket No. 150. Since the Court is addressing Dela Peña's request for a certificate of appealability on its merits, this second motion is moot and will not be considered further.

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1 § 2255 petition are "debatable among jurists of reason." *See, Jennings v. Woodford*, 290 F.3d
2 1006, 1010 (9th Cir. 2002). Accordingly, Dela Peña's motion for a certificate of appealability
3 is DENIED.

4 IT IS SO ORDERED this 30 day of March, 2006.

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ROBERT M. TAKASUGI
United States District Judge

* The Honorable Robert M. Takasugi, United States District Judge for Central California, by designation.